IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Crl.Rev.Pet.No. 782 of 1999()

CC.120/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NILAMBUR

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REVN. PETITIONER:

M.P.THOMAS, AGED 47 YEARS
S/O THOMAS, MELEMEKKARANGATTU HOUSE
KULAKANDATHIL, NILAMBUR AMSAM, ERNAD

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS:

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1. STATE OF KERALA, REP. BY THE
SUB INSPECTOR OF POLICE, NILAMBUR
REP. BY PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM

2. VENCHALIL SAMUVAL, S/O ABRAHAM
KOLAKANDAM, NILAMBUR

3. VENCHALIL VARGHESE, S/O ABRAHAM
KOLAKANDAM, NILAMBUR

4. VENCHALIL ABRAHAM @ THANKACHAN
S/O VARGHESE, KOLAKANDAM, NILAMBUR

5. VENCHALIL BABU, S/O VARGHESE
KOLAKANDAM, NILAMBUR

6. VENCHALIL JOHN @ JOSE, S/O SAMUVAL
KOLAKANDAM, NILAMBUR

7. VINCENT @ MANI, S/O SAMUVAL
KOLAKANDAM, NILAMBUR

BY ADV. SRI.V.GIRI
SRI.P.HARIDAS
PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.782 of 1999

Dated this the 17th day of July, 2007

O R D E R

The revision petitioner is the defacto complainant in C.C.No.120/96 in which the accused stands acquitted. The offence alleged are under Sections 143, 147, 148, 447, 506(ii) read with 149 IPC.

2. The evidence adduced in the matter consisted the testimony of PWs' 1 to 7, Exts. P1 to P6 and Mos' 1 to 3.

3. The prosecution case is that on 18.10.1991 at about 9 a.m., the accused formed themselves into an unlawful assembly, committed rioting and then trespassed into the rubber estate of PW1 while he was collecting latex and brandished weapons and threatened to kill him. Of PWs' 1 to 7 who were examined in support of the prosecution, only PW3 is the alleged eye witness. It was brought out that in between PW3 the occurrence witness and the accused certain criminal cases are pending. Hence the court below rightly noted that he cannot be treated as an impartial witness. So also the defacto complainant is the accused in a

similar matter on the allegation that he committed criminal trespass into the house of the accused and threatened to kill him etc. Further, there is a delay of two days in lodging the complaint. The explanation furnished was found to be not satisfactory. The version of PW1 that he was afraid to step out of the house appeared incredible in view of the fact that his brothers and parents are residing adjacent to the house of the complainant. There was also discrepancy with respect to the alleged weapons used. It was in the above circumstances that the court below acquitted the accused. I find no interference is called for in the finding of the court below considering the constraints of the exercise of the revisional jurisdiction in a case of acquittal.

The revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

CRL.R.P.No.616/1999

ORDER

6th July 2007

CRL.R.P.NO.616/1999

ORDER ON CRL.M.P.NO.2747/1999 IN CRL.R.P.NO.616/1999

DISMISSED

6.7.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE